

Transcription of the Closed Session of the
Michigan Independent Citizens
Redistricting Commission

Held on Wednesday, October 27, 2021

Commencing at 4:05 p.m.

Transcribed by Carolyn Grittini, CSR-3381

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1 Wednesday, October 27, 2021

2 4:05 p.m.

3
4 CHAIR SZETELA: As Chair of the commission, I
5 call this closed session of the Michigan Independent
6 Citizens Redistricting Commission to order at 4:05 p.m.
7 For the public record, could the secretary please take the
8 roll? Could the secretary please take the roll?

9 SECRETARY: Commissioners, please say present
10 when I call your name. If you're attending today's
11 meeting remotely, please disclose during roll call that
12 you are attending remotely. You know the drill. Doug
13 Clark.

14 COMMISSIONER CLARK: Present.

15 SECRETARY: Juanita Curry.

16 COMMISSIONER CURRY: Present and attending
17 remotely from Detroit, Michigan.

18 SECRETARY: Anthony Eid.

19 COMMISSIONER EID: Present.

20 SECRETARY: Brittni Kellom.

21 COMMISSIONER KELLOM: Present.

22 SECRETARY: Rhonda Lange.

23 COMMISSIONER LANGE: Present, attending
24 remotely from (inaudible).

25 SECRETARY: Steve Lett.

1 COMMISSIONER LETT: Present.

2 SECRETARY: Cynthia Orton.

3 COMMISSIONER ORTON: Present.

4 SECRETARY: M.C. Rothhorn.

5 COMMISSIONER ROTHORN: Present.

6 SECRETARY: Rebecca Szetela.

7 COMMISSIONER SZETELE: Present.

8 SECRETARY: Janice Vallette.

9 COMMISSIONER VALLETTE: Present.

10 SECRETARY: Erin Wagner. Erin, I'm going to
11 prompt you to unmute on your phone.

12 COMMISSIONER VALLETTE: Present, attending
13 remotely from Charlotte, Michigan.

14 SECRETARY: Richard Weiss.

15 COMMISSIONER WEISS: Present.

16 SECRETARY: Dustin Witjes.

17 COMMISSIONER WITJES: Present.

18 SECRETARY: All commissioners are present.

19 CHAIR SZETELA: Thank you, Ms. Reinhardt. We
20 have entered a closed session to discuss the
21 attorney-client memos that we received from our general
22 counsel and Mr. Adelson. Mr. Adelson, our general
23 counsel, who wants to lead the discussion?

24 MS. PASTULA: So I will start. Thank you,
25 Madam Chair. So I will start. Again, stating for the

1 record and the closed session minutes that the closed
2 session is called in accordance with Section 8H of the
3 Open Meetings Act being MCL 15.268H. The session was
4 called to occur on Wednesday, October 27th, upon adoption
5 of the resolution and the closed session was called to
6 order at 4:05 p.m. to discuss the privilege and
7 confidential memos being Voting Rights Act of October
8 14th, 2021 and the history of discrimination in the state
9 of Michigan and its influence on voting of October 26th,
10 '21. These memos are both attorney-client privileged
11 communications that provide legal advice to the client,
12 prepared by counsel in regard to the Voting Rights Act and
13 are therefore exempt from disclosure under Section 13G of
14 the Michigan Freedom of Information Act being MCL 15.243,
15 subpart 1, subsection G.

16 The rules for closed sessions are that the
17 confidentiality of the closed session, none of the
18 discussion topics or documents may be shared outside of
19 this room. Everyone received the confidentiality
20 agreement, that if you have not returned to either Sue Ann
21 or myself, please do so. The rules, additionally, that
22 the topic of the closed session can only be the Voting
23 Rights Act based on the two memoranda that are the basis
24 for this closed session. If the topic veers off of this
25 course, I will provide a warning. If the conversation

1 does not cease immediately, the closed session will be
2 halted and we will return to open session at that time.
3 If you have any questions about either of these two
4 things, I know this is our first closed session. So
5 again, we're here to talk about the VRA. We're here to
6 have an open conversation between the MICRC and its
7 attorneys about the VRA, and with all that being said,
8 I'll turn it over to Bruce.

9 MR. ADELSON: Thank you. And thank you for the
10 opportunity to have this meeting. Julieann and I thought
11 that it was important with the -- as a result of the
12 memos, the information that's being discussed in the
13 conventional media, on social media and everywhere to
14 answer questions, provide some advice about a path forward
15 and discuss what the Voting Rights Act actually requires.
16 And let's start with that.

17 The Voting Rights Act, as you know from our
18 discussions previously in the memo, does not require any
19 numerical amount of majority-minority districts; indeed,
20 does not even require majority-minority districts at all.
21 The Voting Rights Act, as you know, is designed and
22 intended to provide an opportunity or ability to elect on
23 the part of protected categories under the statute.
24 That's based on race, color and membership in a language
25 minority group. There are no guarantees of success.

1 There is nothing in the VRA nor in the jurisprudence that
2 requires the success of any particular candidate or that
3 any particular candidate of choice be of a particular
4 race. Typically, as has been seen in court decisions
5 going back decades, a candidate of choice of a minority
6 group is often a person of a minority. But that is
7 neither required nor does it happen in every circumstance.
8 All of that ties into what we've been stressing for a
9 while.

10 This is a data law analysis election results driven
11 process. We have become concerned that there is so much
12 misinformation out there. We wanted to have an
13 opportunity to set the record straight in a sense, provide
14 our advice, provide you with information about what the
15 law actually says and to encourage that as we move forward
16 over the next eight days, if there are ongoing questions
17 or uncertainties, please come to us, as many of you have,
18 to ask questions to get some additional information.

19 But we thought it was really important to stress
20 these threshold items. And as you know, too, where we are
21 today. As you recall, on September 2nd, Dr. Handley
22 presented her racial bloc voting analysis. Racial bloc
23 voting analysis is required by the Supreme Court pursuant
24 to the Voting Rights Act in order to determine if there is
25 racial bloc or racially polarized voting. If there is,

1 what is the remedy for that. The remedy is also informed
2 by Dr. Handley's conclusion of the VAP, the voting age
3 population, that's required or that she has concluded.

4 Minorities need to elect a candidate of choice.
5 That's key. Because rather than just assigning numerical
6 numbers and talking about a district. I read the other
7 day that someone suggested, why don't they just create
8 districts that are 55 to 58 percent black? What's the
9 basis for that? Dr. Handley's analysis does not include
10 that and we've never recommended that as an arbitrary
11 percentage of minority voters is needed to comply with the
12 Voting Rights Acts.

13 In addition, one of the differences this cycle,
14 redistricting cycle, compared to ten years ago and
15 something that Julieann and I talked about a while ago and
16 we've been actively thinking about as the process has
17 unfolded, the federal judiciary is more conservative than
18 it was ten years ago. The judiciary, particularly the
19 Supreme Court, on several occasions has indicated some
20 reluctance to abide what they consider to be race-based
21 solutions, race-based answers, race-based compliance. So
22 that is yet another reason why just having arbitrary
23 numbers, 60 percent, 58, you know, whatever they are,
24 under the premise of the VRA, I think, has particularly
25 fraught this cycle, and something that we have actively

1 thought about, been concerned about and that's yet another
2 reason why we stick to the data, the analysis, the
3 election results.

4 I also wanted to comment briefly on the Voting
5 Rights Act in primary elections. We've heard a lot about
6 that. Yes.

7 COMMISSIONER ROTHORN: So I want to make sure
8 that we understand this data. The analysis and the
9 primary results --

10 MR. ADELSON: Election results.

11 COMMISSIONER ROTHORN: Right, election
12 results. (Inaudible). They didn't have Dr. Handley's
13 second set of data.

14 MR. ADELSON: Well, the data's like what's in
15 the active matrix. The data includes, yes, Dr. Handley's
16 analysis. Yes.

17 COMMISSIONER ROTHORN: And that the analysis
18 (Inaudible). Sorry about that. I forgot. So yeah, the
19 data is in the active matrix, the analysis is Dr.
20 Handley's analysis primarily and the election results is
21 also in the active matrix, but it's the election results.
22 So those -- okay, thank you. Just wanted to be clear.

23 MR. ADELSON: Sure. And to your point, as you
24 know, the matrix includes one primary results statewide
25 from 2018. The reality in Michigan is, there are no more

1 statewide primary results. I know there's been a lot of
2 talk about primary results.

3 What's also important to remember, and I don't know
4 that we've touched on this specifically, often in
5 primaries there may be a multi-candidate field that, let's
6 say, has seven minority candidates and one white
7 candidate. I'm just saying that at random. Remember, one
8 of the keys for Voting Rights Act is -- and the Thornburg
9 versus Gingles Supreme Court case. Cohesiveness. Meaning
10 the minorities have to vote essentially for the same
11 candidate. If you have seven, six, five -- if you have
12 multiple candidates, minority candidates, in a primary
13 field, it would be very difficult, in my experience, for
14 one to achieve 50 percent or more so that that person
15 could be analyzed to be the candidate of choice.

16 That's one of the challenges with primary elections.
17 Although, primary elections, I agree, when they're
18 available, can be helpful. It's also important to realize
19 in a multi-candidate field, the Voting Rights Act doesn't
20 pick favorites in a sense. It's all about the voters.
21 It's not about the candidates. So if the voters are
22 showing that they are preferring multiple candidates, then
23 the rhetorical question is well, who's the minority
24 candidate of choice? It would be, in my experience, very
25 difficult in a multi-candidate field to come to that

1 conclusion, so that while primaries can provide useful
2 information, please be advised that they don't necessarily
3 -- they're not necessarily dispositive. They don't
4 necessarily tell the whole choice.

5 Remember, the Voting Rights Act does not require a
6 guarantee that any particular person will be elected.
7 It's an opportunity to be elected and ability to elect.
8 That's what Dr. Handley's analysis is premised on. Her
9 analysis of a percentage that's needed, threshold
10 percentage, for minority voters to achieve that
11 opportunity or ability to elect.

12 So, these have been among the larger concerns that
13 we've had with either misinformation or no information.
14 And along the same line, I have to point out that all the
15 studies -- I shouldn't use that word. Of all the
16 information that's been put out there, there are no racial
17 bloc voting analyses that we've seen that contradict or
18 even address or even exist to counter what Dr. Handley
19 did.

20 The information -- like for example, in the AFL-CIO,
21 the Fair Maps Report. They mention that the Voting Rights
22 Act requires if you have a certain number of
23 majority-minority districts, you must have the same
24 number. That is legally and factually incorrect. That's
25 part of what we've been concerned about. These documents

1 are infused with either misinformation or lack of
2 information.

3 The Michigan Civil Rights Commission document, one
4 of the concerns that we have about that is it presupposes
5 if a minority candidate, a black candidate, wins in a
6 particularly packed district, like a 90 percent district,
7 I think was one of the ones that was referenced, the
8 report makes the assumption that there are Hispanic and
9 Asian voters in these districts and, ipso facto, they
10 supported the black candidates. That's just beyond the
11 pale of being insupportable and incorrect. Drawing that
12 conclusion is based on no analysis and is -- it's just
13 woefully misleading.

14 So the information that's out there does not
15 contradict what you have been doing, what you have relied
16 upon, what the law talks about and sometimes goes the
17 other way and provides incorrect information that's
18 misleading or can engender opposition to something that is
19 baseless, that has no legal support.

20 So we've talked about this for a while and the -- it
21 just came to the point recently that we both concluded
22 that we really need to just lay this out, make it really
23 clear that these things are just not true.

24 To that point and one point about going forward. We
25 have some thoughts with some suggestions about how to deal

1 with some of the issues that have come up recently. But
2 one of the things we have to stress, emphasize, insist on,
3 plead, beg and say please, please don't use phrases about
4 adding black people, subtracting black people, adding
5 white people, subtracting white people. We're going in a
6 little bit of a different direction.

7 The reason that we -- one of the reasons we wanted
8 to have this session is that in looking to the future,
9 looking over the next eight days, we don't want to give
10 people out there specific paths to challenge what you're
11 doing. Remember one of the things we talked about
12 initially is legally, race cannot predominate
13 redistricting. It can be one factor of many. But when
14 phrases like that are used, it just ostensibly rockets up
15 to the top, gives people the ammunition that they're
16 looking for. And to that end, there's a substantial
17 record, obviously, the commission has put together.

18 But since you're in the last phase now, people are
19 going to focus -- I'll borrow a phrase from some, I don't
20 even know who said this -- focus like a laser beam on what
21 happens now, from now until next Friday. So that even if
22 comments were made previously, the focus will be on what
23 you do, what the dialog, the conversation is now, much
24 more than what happened before. That was true in Arizona.
25

1 The lawsuits were based on the changes that were
2 made after the draft maps were approved. After the public
3 hearings when we went into the final mapping stage. The
4 lawsuits focused there. What happened before was
5 preliminary, and I think that that's also part of what we
6 wanted to stress.

7 These draft maps are preliminary, as you know.
8 They're trial balloons. They're not final. You can make
9 decisions about how to deal with these maps up until your
10 deadline.

11 So I think that there were a lot of useful comments.
12 I want to highlight one particular area of comments. A
13 lot of information, as you know, that has been brought out
14 that can be evaluated for what decisions you want to make
15 going forward. One of the comments that I want to focus
16 on are narrative comments, some comments in Flint
17 yesterday. And that the focus of most of the comments
18 about keeping Flint whole or Flint together, if you listen
19 to them, were not racial. They were about, we want to
20 elect someone who lives in Flint.

21 Having lived in Flint and having voted in Flint, I
22 understand the difference between City of Flint and
23 Genesee County. Very different demographics, very
24 different. So that description was not race based, it
25 was essentially, keep our community together. Keep our

1 folks together, keep our neighborhoods together because
2 we know what's best for us with all of the tragedies that
3 Flint has experienced. And I think that's one of ours, as
4 we've talked about, one of our suggestions for a path
5 forward; that rather than focus on race predominantly,
6 which, of course, as you know, we strongly advise not to
7 do, take a lesson from Flint in a sense. The focus being
8 keep us together, we want to elect one of our own, not of
9 any particular race, but out of concern that our needs as
10 a community will be best served by electing someone who
11 lives in our community.

12 So that's one of our takeaways from yesterday,
13 something we've talked about and I think that that can be
14 a path forward in addressing, evaluating, debating and
15 discussing some of the comments that you've heard over the
16 last week or so. Yes.

17 CHAIR SZETELA: Commissioner Eid.

18 COMMISSIONER EID: So, how do we do that
19 without packing the districts?

20 COMMISSIONER KELLOM: Can I?

21 CHAIR SZETELA: Commissioner Kellom.

22 COMMISSIONER KELLOM: I think what I hear
23 Bruce saying is the rhetoric and language that we use to
24 justify. So like what we're actually doing when we're
25 reunifying folks is, of course, we're putting certain

1 races together and we know that. But then what we say is
2 that we're observing the fact that these areas are
3 uniquely different. Like when we think about Detroit.
4 And so we're not using the language that is going to
5 question the maps when it gets to that point. So, I think
6 if we go back and look at the cultural aspects in the
7 neighborhood, whether it's Flint, Saginaw, you know, the
8 places that are completely black, just saying it
9 like that, will be -- the undertones will be accomplishing
10 what folks want, but doing it in a way that still upholds
11 our criterion and everything else, like our matrix and our
12 data and all that other stuff. But that's what I -- how I
13 understood him to say it and what I've been thinking
14 about. But I don't know if that's what you were asking
15 necessarily.

16 CHAIR SZETELA: Commissioner Orton.

17 MR. ADELSON: Before we move on, I want to
18 address Commissioner Kellom and Commissioner Eid. One of
19 the things that has been missing is in the public comments
20 is the public has been like quite insistent that these are
21 Voting Rights Act violations. Let's take a step back.
22 They're not Voting Rights Act violations. Why?

23 Dr. Handley has determined, through her analysis,
24 the VAP that's needed to elect in these areas. And I take
25 your point, I agree that packing districts the way they

1 are now would be problematic. And we're not talking
2 about that because we're really not talking about, excuse
3 me, the Voting Rights Act. In my discussion about Flint,
4 you notice I didn't say the Voting Rights Act at all. I
5 didn't mention race at all. The reality is that there
6 are, not only in Flint, but there are, I'm confident in
7 looking at some of the comments, communities that were
8 split, neighborhoods that were split, historic
9 neighborhoods, particularly in the black community, that
10 have that same commonality as the comments from Flint; we
11 want to keep our community whole.

12 This is not about complying with the Voting Rights
13 Act. Because it's been our determination, based on the
14 analysis, that you've met those thresholds. There may be
15 one or two, I think, that we can evaluate. But this is
16 more a keeping neighborhoods whole, keeping communities
17 whole, listening to the public. That's not a Voting
18 Rights Act issue, per se.

19 Yes, if you had a downtown Detroit district where
20 the black VAP was 20 percent, yes, I think that would
21 definitely be something that we would need to address.
22 But that's not where we are.

23 So that's a very important divide. And some think
24 that I know Julieann and I felt and do feel very
25 strongly about, that these comments about violating the

1 Voting Rights Act and Section II and talking about
2 various Supreme Court cases. Well, no. Because remember,
3 what's out there, no one has said that these thresholds
4 are incorrect.

5 They may like, you know, certain thresholds to be
6 different or higher and they may question why they're
7 being used, but no one has said well, our analysis shows
8 that the VAP should be 48.9 percent. Nobody said that.
9 And I think that that's among the many telling omissions
10 out there.

11 So this is less a VRA issue. That's one of the
12 reasons in putting out the memorandum to distinguish what
13 does the Voting Rights Act require. Not majority-minority
14 districts, not numerical percentages; ability and
15 opportunity to elect. Period.

16 The Flint issue is communities, neighborhoods and
17 our being able to elect someone, not based on VRA
18 requirements, but who understands what it's like to live
19 in the City of Flint compared to somebody who lives out in
20 Genesee County.

21 CHAIR SZETELA: So I would add to that, one
22 of the things I thought was most revealing for me was, you
23 know, you hear all these statements that people have said
24 and it worries me deeply. And so I looked at the Promote
25 the Vote maps, and more specifically, I looked at their

1 statistics. And if you look at our maps, like our
2 congressional districts, we have two that are within the
3 range of what we were aiming for, so they're in the 40
4 percentile of BVAP. If you look at the Promote the Vote
5 maps for their congressional, they have one district
6 that's 43 percent and one that's 50. And then if you go
7 to their senate map, it's the same thing. If you actually
8 look at their senate map and look at the statistics and
9 compare it to ours -- I'm looking at their senate map
10 right now. 40 percent, 42 percent, 43 percent, 47
11 percent, 41 percent. So their numbers aren't any
12 different than ours at all. And so it's like, how is your
13 40 percent different from our 40 percent? And my takeaway
14 is that it isn't about the Voting Rights Act and that
15 their maps are the same as ours when it comes to the
16 percentages. So, it's more about the feel.

17 MR. ADELSON: Yes, that's a great point, Madam
18 Chair because we were -- Julieann, we were just wondering,
19 did they use like our BV analysis? You got to kind of
20 wonder about that because they obviously don't have their
21 own.

22 And that being said, you know, keep in mind that the
23 VAP numbers, of course, these are estimates. They're
24 not written in stone. There are, I think, neighborhood
25 community of interest issues in the black community in

1 Detroit that can be addressed, just like comments that
2 you heard about Hamtramck, for example.

3 But we view these more as neighborhood community
4 concerns, because unlike your -- unlike the naysayers who
5 are out there. They haven't come to the table with any
6 analysis to back up what they're talking about. Even one
7 reporter asked me, is there a magic number in the Voting
8 Rights Act? Does it say a magic number that we have to
9 have X number of majority-minority districts. And the
10 reporter was shocked when I said no, it's not about magic
11 or numbers. It's about what does the analysis show.

12 Now Dr. Handley, as you know, is doing additional
13 analysis, and we're going to be speaking with her to get
14 more of a feel when that will be done. But unlike all
15 the organizations and the people who are speaking very
16 loudly, what we're doing, what you're doing is you're
17 basing your work on analysis. So that one important
18 distinction, whether it's Flint or however many districts
19 in Detroit you decide to adjust that way.

20 Because we're not saying that you need 50.1 percent
21 to elect, and I want to make sure that we're clear on
22 this, that that's not packing. Let me say that again. In
23 Flint -- we'll use Flint. Let's say Flint is kept
24 reasonably whole, let's say it's 54 percent. That's not
25 packing because we're not creating a district with a

1 certain arbitrary percentage to stuff black people into
2 this area, more than they need to elect.

3 What you're doing is something that's not Voting
4 Rights Act.

5 FEMALE SPEAKER: (Inaudible).

6 MR. ADELSON: Yes. And that community, that
7 neighborhood scent -- that's a very important
8 consideration. And what's also important, too, with all
9 of the comments in the last couple of weeks, the comments
10 that have recommended a specific numerical number for
11 districts, the vast majority of comments that I heard, it
12 was 50.1 percent. Not 59. What does that tell you? That
13 that's less a VRA issue and more of a --

14 MALE SPEAKER: (Inaudible).

15 MR. ADELSON: That and a community-based
16 neighborhood type vibe that's not saying we have to have
17 this. It's something different.

18 MS. PASTULA: It's based solely on race,
19 those comments. And a lot of that advocacy efforts, and I
20 know Cynthia's arm is going to fall off if it's up in the
21 air anymore. But one thing I wanted to highlight, too,
22 about Flint, and I stepped out of the room a couple times
23 for meetings, but what I wanted to highlight is what I was
24 hearing was water crisis, disinvestment, GM leaving, the
25 school board issues. There were a few commenters that

1 talked about race or talked about the 50 percent plus one
2 or you have to pack us in because the primary has too many
3 people run. Although, I think that was a predominantly
4 Detroit comment.

5 So again, what I was hearing wasn't VRA advocacy.
6 What I was hearing was community of interest advocacy,
7 founded on their lived experiences and their history
8 and that's very different than running -- than doing
9 that and running a BVAP number and using that in the
10 analysis. That's not what they were suggesting. The
11 majority of commenters. But I thought that was a
12 fascinating thing as well. Did you talk about cohesion
13 yet or not yet? Or we go to Cynthia first?

14 MR. ADELSON: Yes.

15 CHAIR SZETELA: Let Commissioner Orton go.
16 She's worried she's going to forget her thoughts.

17 COMMISSIONER ORTON: So I did forget the
18 first one. But, the next one is -- I was going to say
19 when we're talking about this, if we choose to put
20 anything together that we currently have separated, we go
21 back to communities of interest. It's a community of
22 interest thing, not a VRA thing.

23 MS. PASTULA: Just like when you were
24 mapping, when you were mapping, you were talking about the
25 public comments. You were talking about the people that

1 were giving testimony in the neighborhood. You had other
2 sources of data that you were looking at. You had the
3 active matrix. You had all of these sorts of things that
4 inform your work and resulted in draft proposed maps.

5 I think it's critical. Again, they were draft
6 proposed maps. I don't think anyone intended for a draft
7 proposed map to make it through to the final maps without
8 any at least discussion, I won't say modification, but at
9 least a discussion about should anything be changed? What
10 did we hear at the public hearings? How do we move
11 forward on this map?

12 COMMISSIONER ORTON:: Well, I do also want to
13 say I think, I hope we all recognize, at least I think
14 many of the -- many, many, many of the comments that we
15 heard, while they were saying that it was a VRA issue,
16 it's a partisan issue. They have an agenda, and we need
17 to be able to spot that and weed that out and not fall for
18 that.

19 MR. ADELSON: And I think to that point, I
20 think that's a really excellent way to look at it. I also
21 have to say that the comments like that are in no way
22 unique to this commission or Michigan. That there have
23 and continue to be many situations around the country
24 where minority voters are packed into a district to -- as
25 a result of a working arrangement within the two major

1 political parties. That's been true for a long time. And
2 I've seen that for a long time. And that has often
3 resulted in packed districts.

4 And to your point, Commissioner, I think
5 that the being able to separate that out and realize
6 where these organized interests are coming from. I think
7 that's very important.

8 I want to make one quick comment. I know
9 Commissioner Curry has her hand up.

10 CHAIR SZETELA: Yeah, Commissioner Curry has
11 her hand up.

12 MR. ADELSON: One of the -- under the Thornburg
13 versus Gingles Supreme Court decision, in order to make a
14 case for a Section II vote dilution requirement, you have
15 to show that minority voters vote together; that they
16 support the same candidate; that there's cohesion. In
17 these multi-candidate fields, there really isn't cohesion
18 because there's support for various candidates.

19 What's also interesting, in the 2018 primary
20 election, remember El-Sayed, Thanedar and Whitmer. I spoke
21 to Dr. Handley about that to see if that might shed some
22 light on black voter behavior. She said what it does, it
23 shows that there's no cohesion; that black voters
24 supported in varying degrees all three candidates. So
25 that means that that election is a valuable one. It has

1 been very useful in helping us kind of figure out
2 Arab-American preferences. But the only thing it tells us
3 about black voter preferences is there's no cohesion;
4 that they support each candidate in varying numbers, not
5 necessarily reaching a majority.

6 So that's really important, too, that with these
7 multi-candidate fields like this 2018 primary, if the
8 largest minority group is not supporting the same
9 candidate, they're not voting together cohesively, that's
10 one of the factors for Gingles. If you can't show that,
11 then you cannot prove Section II discrimination.

12 CHAIR SZETELA: Commissioner Curry.

13 COMMISSIONER CURRY: Yes. I want to comment
14 that I'm tired of looking at this screen. Is there any
15 way possible -- I can feel more like I'm there with you
16 guys if I could see more faces, because all I'm looking at
17 is a screen.

18 CHAIR SZETELA: Hi, Juanita.

19 COMMISSIONER CURRY: I mean, it's strange
20 being out here trying to keep my concentration just
21 looking at Michigan Independent Citizens Redistricting
22 Commission screen.

23 CHAIR SZETELA: Commissioner Lett or Sarah,
24 is there a way that she can fix that? Can she --

25 COMMISSIONER CURRY: Yeah, we usually do it

1 when we're at the -- when we're in sessions when I was
2 there.

3 CHAIR SZETELA: Yeah, you should be able to
4 go to the upper right corner and it should give you a
5 drop-down up at that -- there's like a little toggle and
6 it'll say like change view and you can do like gallery,
7 side-by-side. I'm trying to do this from memory. Yeah.
8 Speaker. Yeah, you want to do gallery probably or
9 speaker.

10 COMMISSIONER CURRY: I see everybody.

11 CHAIR SZETELA: Can you see that little -- in
12 the upper right-hand corner --

13 COMMISSIONER CURRY: I got the upper, yeah,
14 but it's still not giving me anything. In fact, now it's
15 all gone.

16 CHAIR SZETELA: No, you should have the
17 option for like speaker, side-by-side, gallery and you
18 probably want like gallery.

19 COMMISSIONER CURRY: Okay. It's just been
20 removed, so I'm going to leave it alone.

21 CHAIR SZETELA: Okay.

22 COMMISSIONER ROTHORN: Sorry, Juanita.

23 CHAIR SZETELA: Sorry, Juanita.

24 COMMISSIONER CURRY: I'm going -- good night.

25 CHAIR SZETELA: Good night. Don't go yet.

1 COMMISSIONER ROTHORN: Don't go yet. Don't
2 go yet.

3 COMMISSIONER CURRY: I can't see anything, so
4 why stay?

5 MALE SPEAKER: Because you can hear.

6 CHAIR SZETELA: Because you can hear us.

7 COMMISSIONER CURRY: No. You all need to fix
8 this thing right. I want to hear and see so I can have
9 some kind of --

10 MS. REINHART: Juanita, unfortunately, we
11 can't fix it for you. You're going to have to change your
12 settings on your computer.

13 COMMISSIONER CURRY: I just did.

14 MS. REINHART: There should be an option on
15 there to change it to gallery view and then you'll be able
16 to see everyone.

17 COMMISSIONER CURRY: I had gallery and it only
18 showed myself bigger. Okay. I'm not seeing any faces. I
19 want -- that's okay. You all are not getting what I'm
20 trying to say.

21 CHAIR SZETELA: No, we know what you're
22 saying. I just don't know how to fix it for you.

23 COMMISSIONER CURRY: I think you would have to
24 do it there. I can't do it. I see my -- it's changed
25 somewhat, but Mike Brady is not showing. Rhonda Lange is

1 not showing. Erin Wagner is not showing. Then I still
2 have a commission with a screen. That's better. Thank
3 you. Somebody know how to do something.

4 CHAIR SZETELA: All right. Commissioner
5 Clark and then Commissioner Lett, sorry.

6 COMMISSIONER CLARK: Okay. Bruce, I agree
7 with everything you said about Flint. As I reflected back
8 on that, when I was driving home last night. I agree.
9 But Detroit's different. And so your comments were -- it
10 appears to be a neighborhood issue and they want to have
11 the neighborhoods consolidated. So we can do that and
12 make minor modifications to the districts we've done. But
13 that, to me, doesn't fix the problem they were complaining
14 about. The problem they were complaining about was, in my
15 mind, was that the districts didn't give them the
16 opportunity to elect. And so changing just the
17 neighborhoods is not going to change that problem.

18 So the way to change that would be to make the
19 districts -- compress them so that more of the blacks are
20 in Detroit. But then you end up with the comment that
21 Anthony was talking about, are we packing? So how do we
22 resolve something like that?

23 CHAIR SZETELA: Commissioner -- once you
24 answer, then Commissioner Lett and then Commissioner
25 Eid.

1 MR. ADELSON: I think that's a great question
2 and I think that the -- and you're right that a lot of the
3 comments were, we can't elect. Of course, we don't agree
4 with that. And you have analysis that supports our
5 conclusion and our advice. They don't have that. So the
6 level of VAP that is needed, I think Dr. Handley
7 established that.

8 Now, I think that what's also true, whether it's the
9 reunification of Hamtramck in one district, I can't tell
10 offhand whether that -- how that changes from a
11 population standpoint. But, in a sense, you know, I agree
12 with you that we're not talking about vast changes. We're
13 not suggesting vast changes to these districts. My
14 recollection is that there are neighborhoods that were --
15 whether they were -- I don't want to say split between
16 counties, but that were split that just like the
17 commission addressed the Lakeside districts and there have
18 been a lot of comments about Ottawa County, Midland and a
19 lot of other issues, too, that these are comments from the
20 black community in Detroit, that if you look at the
21 historic nature of Detroit which also -- the neighborhoods
22 in Detroit, I think that our suggestion would be that
23 that's something to evaluate and something to look at
24 further.

25 And remember, too, that with the mantras, in a way,

1 in evaluating this. The Voting Rights Act is about
2 opportunity or ability to elect candidates of choice, not
3 candidates of a certain race and not guaranteeing that any
4 one person or one race wins.

5 So that the process now, at the end, is a
6 challenging one in the sense that you're filtering a lot
7 more information than you were three weeks ago. A lot of
8 that information is, at best, misleading. And to
9 Commissioner Orton's point, a lot of it has a specific
10 agenda where the people behind these agendas want a
11 specific, relatively high black voting age population.
12 We're not talking about that.

13 And I think that -- let's also be, you know, going
14 back to what I had said before; that if you create
15 districts or adjust districts so that they wind up having
16 50.1 percent, 51, 52 percent BVAP, we're not packing
17 because that issue is not addressing a Voting Rights Act
18 issue that your lawyers are advising you about.

19 Whether or not people in the community think it's a
20 VRA issue is a different consideration. That bringing
21 these, looking at these communities as the commission has
22 been so responsive to, like with the Lakeside districts,
23 I think that that's an important consideration.

24 What's also important, too, remember these last
25 eight days. Are people going to look at this, this will

1 be the focus of litigation, the focus of testimony and the
2 focus of depositions. It's really important, your
3 attorneys believe, that you show now an additional effort
4 to address the recent concerns without packing, without
5 making population choices at random, but you show that we
6 are addressing the concerns of the black community in
7 Detroit. We're addressing the concerns of the black
8 community in Flint. We're not doing it by creating 70
9 percent BVAP districts.

10 But we are looking at these, we're taking them
11 seriously and you put on the record, show that you're
12 doing that. Showing a court that this is what we did,
13 that's what we did in Arizona, and there were a lot of
14 concerns about oh, you know, you made this decision and
15 that decision. As you know, we backed up every decision
16 we made. We explained everything.

17 Being able to say, look at the changes that we made,
18 look at the adjustments that were considered and approved
19 that address these community-based neighborhood concerns,
20 we think that's a very important place for the commission
21 to be at this late stage because that kind of offsets
22 significantly whatever comments, whatever issues came up
23 previously, because it shows well, what did you do? What
24 did you discuss? What decisions were made in the last
25 eight days?

1 We see that as being a potentially tremendous
2 benefit that takes away a potential avenue of litigation
3 and gives you a substantial record to run on, in a sense,
4 to show this is what we addressed, this is how we did it
5 and we didn't do it by packing people. We didn't do it by
6 just randomly coming up with numbers, and we didn't do it
7 because we thought that there was vote dilution and
8 discrimination of the Voting Rights Act.

9 COMMISSIONER CLARK: So with our spoke concept
10 in Detroit, do you think we're on the right track?

11 MR. ADELSON: Well, I think that -- and that's
12 something that, you know -- I'm glad that you mentioned
13 that because that's something that we really wanted to
14 stress and that this is a good time to do that.

15 Michigan, and this is part of the reason -- well,
16 let me back up for a minute. The memorandum on
17 discrimination, history of discrimination, is important,
18 because if this were a Section II case under the Voting
19 Rights Act, the court would consider that. So we thought
20 that it's important for the commission to know if there is
21 any type of Voting Rights Act litigation, that's exactly
22 what people are going to be looking at. That's what an
23 expert will be hired to do. There will be a paper like
24 that. So your being able to see now what may happen in
25 the future is important to know.

1 And in referencing that, Michigan, as you know, has
2 been a state since 1837. Legislative maps, until now,
3 were drawn either by courts or by the legislature,
4 whether it was in 1898 or 2000. So you talk about the
5 spoke system. You spent a lot of time and hard work
6 unpacking the city that, frankly, has been packed for
7 decades, partly because of that arrangement we talked
8 about between the political parties. That took a lot of
9 work and we applaud that. We think that definitely is the
10 right track. It expands minority vote opportunities. It
11 expands opportunities for the black community in Detroit
12 to expand its influence. So yes, that is definitely the
13 right way to go. We are not, in any way suggesting, nor
14 will we, that you pull back and go south of Eight Mile and
15 stay there. We are not saying that at all. Your
16 unpacking work was significant. Never happened in the
17 almost 200-year history of this state.

18 And what you're doing -- and I want to --

19 CHAIR SZETELA: We have three people who have
20 hands up.

21 MR. ADELSON: Oh, I'm sorry.

22 CHAIR SZETELA: Commissioner Lett,
23 Commissioner Eid and then Commissioner Lange.
24 Commissioner Lett, go ahead.

25 COMMISSIONER LETT: I agree with Bruce's

1 analysis for the primary reason that I've been listening
2 to what he's been saying, obviously, and I've been
3 listening to what the civil rights director, who is an
4 attorney, has to say. And so I was somewhat concerned --
5 what he's saying is that if you have a majority-minority
6 district and you have to keep a majority-minority district
7 and Bruce is saying no, you don't. Then, who is right and
8 have -- Johnson is his name. Is it correct saying that
9 you have to keep as many majority-minority districts as
10 you started with under Section II, I said, well, why not I
11 go and look in Section II and see what it has to say.
12 So I've done that a couple times and I did it once today
13 as we're locked down, providing ourselves with security --
14 ha, ha, ha. There is nothing, I'll repeat that, there is
15 nothing in the statute that talks about a percentage.
16 There is nothing in the statute that talks about a
17 majority-minority district or a minority-majority
18 district. It's not even mentioned in the statute.

19 So when he comes on in front of us and says that, as
20 Julieann has stated, it's absolutely wrong. It's two
21 paragraphs. I'd be happy to show it to you.

22 Secondly, Virginia, great state of Virginia tried
23 this. They came out in a case -- the recent case. It's
24 the -- give me the name. It's after Gingles. It's a very
25 recent case and it says -- well, you have to have -- they

1 decided well, we have to have a majority-minority
2 district, because I think they were under VRA and so they
3 went 50.something. And the Supreme Court says no, you did
4 that just because you were putting that 50+ percent race
5 in to make that majority-minority district. You only did
6 it because of race. That is against the case law. And
7 that is where the VRA and Section II is analyzed is in the
8 case law, not in the statute.

9 So the other thing is, the case law and the statute
10 and the case law interpretation is, it's results oriented.
11 It's not intent. So what that means is if we make a
12 district -- I'll pick 55 percent as the number and we make
13 a 55 percent district, that's pretty blatant on its face
14 that the result that we've achieved is that it's a
15 majority-minority district and it's assumed, presumed then
16 that you did it because of race and then the burden shifts
17 back to you, us, to prove we didn't do that.

18 Finally, in respect to Commissioner Eid's how are we
19 supposed to protect ourselves, if you didn't read
20 Edward's clip from 10/25/21 in which Mark Grebner was
21 interviewed, you should. Number one, I like it because
22 it's exactly what I believe. And he is the person -- I've
23 known of him, he's not a personal friend, but he has been
24 a political operative in Ingham County forever and he runs
25 a political consulting firm. And if you want to know who

1 voted for whom, when, go ask him, he'll tell you. He says
2 communities of interest was created as a nebulous criteria
3 that the Redistricting Commission could use later as
4 cover for whatever map it draws. Communities of interest
5 is a will-o-the-wisp. It's a wreath of smoke. It can be
6 whatever is necessary. The crucial thing is, who decides
7 what a community of interest is that gets preserved? The
8 answer, the commission does. Who gets to review that?
9 Frankly, nobody does. It's up to them. Was it originally
10 intended? Yes. It was built-in. It's nailing Jell-O to
11 the wall.

12 Now, you can think that that's being rather over the
13 top, but as a lot of people that have heard me talk,
14 that's exactly what I believe. Who decides what a
15 community of interest is? Doug asked that question right
16 upfront, first meeting maybe, second meeting. Who
17 defines community of interest, and my statement was, the
18 community of interest defines if it's a community of
19 interest. But that's what we can use now to justify what
20 we're doing. And it's in the amendment. They put it in
21 there for us. So let's use what we got.

22 And I know that M.C. really likes communities of
23 interest.

24 CHAIR SZETELA: We know that.

25 COMMISSIONER LETT: He really likes them.

1 CHAIR SZETELA: He loves them.

2 COMMISSIONER LETT: So when we have a problem,
3 M.C., look at your notes and tell us what the community of
4 interest is.

5 But I mean, that's how we're going to do it.
6 Population, they got to be contiguous, and then do what's
7 best for the state. I agree with the people that out
8 there said, do what's best for the state. And here's what
9 we have to do in order to do that. And here's how we have
10 to provide ourselves with cover. We can do it. Tomorrow.

11 CHAIR SZETELA: Tomorrow. So I have one
12 follow-up question and this is a yes or no
13 question/answer, please. Does the Michigan Department
14 of Civil Rights typically enforce the Federal Voting
15 Rights Act?

16 MR. ADELSON: No.

17 CHAIR SZETELA: No, okay. And that was my --
18 no disrespect to Mr. Johnson, but I'm like, why is the
19 Michigan Department of Civil Rights weighing in on the
20 Voting Rights Act? That's not their jurisdiction. That's
21 the Department of Justice. Okay.

22 CHAIR SZETELA: Political, yeah.
23 Commissioner Eid and then Commissioner Lange and then
24 Commissioner Kellom.

25 COMMISSIONER EID: Well, I agree with

1 everything Steve just said. I mean, you can't really
2 argue with facts like that. I also reflected on the
3 Detroit hearing and being someone who lives there, has
4 lived in the city for ten years, yeah, they were just
5 wrong. Like I hate to say it, but I mean, we have
6 analysis. Fact-based analysis that shows that, you know,
7 their comments were not backed by anything other than
8 their feelings, which are very warranted as they have had
9 a long history of oppression. But as far as the maps that
10 we drew, you know, I was very uncomfortable with them at
11 first. I said it in a public hearing that oh, you know, I
12 don't know about this. But, I went back to the analysis
13 and tried to poke holes in the analysis, I really did.
14 But, I mean, I couldn't. It was a well-done analysis. I
15 wanted to ask our lawyers, do you think there's anything
16 in that analysis that could be called into question?

17 MS. PASTULA You mean Dr. Handley's
18 analysis?

19 COMMISSIONER EID: Yeah.

20 MS. PASTULA: I think we've always been
21 consistent. Even before the commission had Dr. Handley
22 and Mr. Adelson, the commission has consistently said that
23 the data's going to drive the number of majority-minority
24 districts. Remember, we were getting a lot of pressure
25 very early on. How many are there? Is there going to be

1 two? Is there going to be more? Is there going to be
2 one? Is there going to be zero? And the answer always
3 was, that until the data is taken and analyzed, that is
4 unknown. And so what the commission has is it has the
5 data, it has the analysis and it has the ability to make
6 decisions based on that analysis. And I think the key --
7 again, we've always been consistent not only with the
8 Section II stuff, but with the case law. What does the
9 case law say? The case law says the 50 plus one percent
10 is garbage. The case law says retrogression is garbage.
11 And you have advocacy people -- and I respect their
12 passion, I respect their lived experience, but what
13 they're doing is advocating for the commission not to
14 follow the law. And it's our job, as unpopular as it is,
15 to try to keep you on track with the law and advise you as
16 best we can. So no, I think you have exactly the data you
17 need to make the decisions, the difficult decisions that
18 the commission needs to make and I think you have a wealth
19 of other data to make other decisions on other criteria
20 that we're not talking about in this session that can
21 support those decisions as well. I think the commission
22 should feel secure in its data and what it has available
23 and that you have resources to discuss those with from
24 this point moving forward. But, we've always been
25 consistent and we will always be consistent in that

1 advice.

2 CHAIR SZETELA: Commissioner Kellom.

3 Oh, Commissioner Lange. I'm so sorry.

4 COMMISSIONER LANGE: Pass.

5 CHAIR SZETELA: Pass, okay. Commissioner
6 Kellom.

7 MR. ADELSON: Well, I just wanted to follow up
8 briefly on what my colleague said. I agree. And I'm
9 sorry, that's two words, I want to be as succinct as
10 possible as I know Commissioner Kellom has a comment, but
11 I agree with what Julieann --

12 COMMISSIONER KELLOM: I don't know if it's
13 like a comment or -- well, yeah, it is a comment. I'm
14 getting a little uncomfortable because it sounds like
15 we're being empowered to not change what we've done, and I
16 think we would be doing a disservice. I've lived in
17 Detroit all my years and I understand, I saw the
18 politicians that got up and spoke and I knew who they were
19 and I know why they were saying that, but the undertone
20 that I know to be true is that in some areas, if we don't
21 change and if we are going to be acquiesce in our position
22 that, you know, we've done such a great job and analysis
23 says that, I think we're going to miss listening to the
24 citizens in Detroit, and that really scares me. Because I
25 see a bunch of nodding heads. I see us almost taking on

1 the position of what politicians have done in saying oh,
2 we did a good job and we're not going to change it. And
3 there are certain people there -- we all know that
4 candidate of choice means electing candidates that look
5 like them. Like, let's be clear.

6 So on one hand, there are people there that want
7 their friends to win, et cetera. But on the other hand, I
8 can't ignore the people that are talking about how
9 Southfield is ripped up, and that is true. How Palmer
10 Park is ripped up, and that is true. And these are areas
11 in which my mother and grandparents still live and that I
12 frequent. So it's like, Anthony, I respect what you're
13 saying, but the Detroit area is jacked up and we need to
14 change it. And I don't want us to sit here and start
15 thinking about ways that we can keep it the same.

16 MS. PASTULA: And I want to jump in really
17 quick because we're not strategizing or planning or doing
18 a course of action because we're in closed session,
19 what we're doing is we're discussing information and we're
20 covering, again, the substance of Bruce's analysis, and
21 what we're doing is we're distinguishing how what a lot of
22 what you have heard is not supported by the VRA, is not
23 supported by the VRA analysis. And whether it can be
24 addressed in other ways is a topic for the open session
25 and your deliberation and adjustment work. But again,

1 it's that really, the substance of a lot of what you were
2 told about the VRA is flat-out incorrect. It has always
3 been incorrect, and that that really was -- particularly
4 with some of the questions that we were getting, it was
5 really important to have the VRA discussion collectively
6 so that you'd benefit from hearing each other's questions
7 and the fuller answers. But I just wanted to jump in on
8 that. Again, because we are in closed session, so we're
9 talking about the contents of the memo, what the VRA does
10 say, what the VRA does not say and how everybody keeps
11 missing the -- not everybody in this room, but how like
12 the public, they're very passionate about what they want
13 without accurately identifying what they want.

14 COMMISSIONER KELLOM: Correct. So what I'm
15 saying is, although they might be using the wrong
16 terminology, I don't want us to ignore what they're
17 actually saying. So if we know what they're saying, then
18 we need to fix it. We need to -- okay, yeah, you're
19 using the wrong word -- like you do, you know, a kid or
20 something, but we know that we can go back and change it.
21 So if that's what -- as long as we're all on the same
22 page. That's all I'm saying.

23 MR. ADELSON: And I think that to that point, I
24 think that one of the most compelling reasons why we
25 wanted to meet is to address what does the VRA require?

1 What does it not require? And in moving forward over the
2 next eight days, that there are, particularly in looking
3 at the potential for litigation in the future, that this
4 is your time to create a vibrant, compelling record that
5 addresses many issues. As Julieann said, we're not having
6 a strategy conversation, but these are things that it's
7 important to distinguish. This is the time to focus on
8 creating that record, understanding what the VRA says and
9 doesn't say, understanding --

10 CHAIR SZETELA: I see you, Commissioner
11 Curry.

12 MR. ADELSON: Understanding how all these
13 interrelationships, how they come together. And also,
14 as I said, that the point we also wanted to make about
15 Flint. Most of the comments didn't even address the VRA.
16 They talked about the community, communities of interest
17 and issues that are not VRA issues. That doesn't mean
18 that they don't have their own compelling rationales which
19 is separate from where we are today. But that meeting
20 spoke loudly about many issues. Most of them were not
21 about the Voting Rights Act, and that's an important
22 distinction, as well as creating that record going
23 forward, that will be examined closely in litigation.

24 Yeah, I want to mention one more point that we
25 wanted to really stress, and this is --

1 COMMISSIONER ORTON: Could we get Commissioner
2 Curry first?

3 CHAIR SZETELA: Commissioner Curry, go ahead.

4 COMMISSIONER CURRY: Thank you. Sorry, Bruce,
5 I lose my train of thought pretty fast, so let me get this
6 in. I just wanted to say that when it comes to Detroit,
7 the people that spoke out for Detroit, they use different
8 terms as somebody just said. They may say different
9 things, but the issue is still as important as the water
10 issue, all other issues around the state, those issues are
11 important because people died, people bled, people got
12 hungry for it, people work and strive just as hard as the
13 people that had to change the way they drink water. And
14 I'm all for people that had to -- what happened in Flint.
15 I mean, yeah, in Flint. But the same issue, different
16 issues are just as important to people when they come out
17 to tell you -- Detroit just stuck to the -- what is that?
18 The BA -- the BRA codes or whatever. But it's the same
19 issue, and so we need to fix it up some, because just as
20 we fix up one place, we've got to fix up -- we've got to
21 try and fix up everybody that has those deep concerns,
22 because this is why we're hired. This is why we're here.
23 And the thing about the VRAs, we got to stick to this or
24 stick to that, I got you, Steve, you told -- that was
25 excellent the way you brought that out. And even

1 Julieann. But we've got to look out for Detroit. I live
2 in Detroit, so definitely, I'm going to speak up. But
3 we've got to give the people some of what they want,
4 because their issues is just as important as Flint's issue
5 and I love Flint, too. I know a lot of people in Flint.
6 I know the issues they had. The lady that did the
7 commercials for the water thing, I kinda grew up with her.
8 So I know the issues. But our issues here in Detroit,
9 they come from the heart. They come from sweat. They
10 come from work, hard work. And sometimes, hungriness.
11 Sometimes people had to suffer for it. So let's deal with
12 it, too.

13 MS. PASTULA: So I'm going to give you guys
14 your first warning. Your first warning. We're getting --
15 we're Q and A'ing on VRA, Q and A'ing on the memos, Q and
16 A'ing on those types of things. And I appreciate the
17 fact, again, that how things grow out and how the
18 conversation grows out, that's a natural thing. So it's
19 certainly expected, but we've got to pull -- are there any
20 other specific questions on the VRA or the memos? If not,
21 Bruce had one additional point. But again, we have to be
22 focused on --

23 COMMISSIONER CURRY: We are focused, Julieann.
24 I'm focused. I know exactly --

25 MS. PASTULA: No, I appreciate that,

1 Commissioner Curry. I certainly apologize for
2 interrupting you, but again, it's not -- we can't do the
3 strategizing session, and I'm sure a lot of your
4 colleagues have their thoughts as well.

5 COMMISSIONER CURRY: I'm not talking about
6 strategizing as much as being real.

7 MS. PASTULA: Thank you, Commissioner
8 Curry. Commissioner Lett and then Commissioner Orton, did
9 you have a comment or you were just -- okay.

10 COMMISSIONER LETT: Just two things to follow
11 up with Commissioner Kellom. We can change. Nobody in
12 this room is saying we can't go in and make changes. The
13 only thing that we are saying is, when we make those
14 changes, we need to be cognizant of the VRA and how we're
15 going to do that.

16 COMMISSIONER KELLOM: Just making sure.

17 COMMISSIONER LETT: And we're going to do
18 it -- I'm assuming we're going to do it in Detroit. We're
19 going to do it in Flint. We're going to do it in Grand
20 Rapids, Ottawa, you name it. Second point, forget about
21 litigation when we get into these maps. Don't sit there
22 and think well, I got to make this change, but am I going
23 to get sued? You're going to get sued, so forget it.
24 You're going to get sued, so forget that. Let's just do
25 the best job we can with the advice that we're getting.

1 MALE SPEAKER: Okay, thank you.

2 MS. PASTULA: Again, the purpose of the
3 closed session was, what is the VRA, what is not the VRA.
4 And you guys are on -- you guys were on the right track
5 and you're staying on the right track. You have the
6 advice, you have the data, you have all the tools you need
7 and you have the resources that you can tap into. Again,
8 I would strongly advise you to listen to your lawyers, not
9 other people's lawyers.

10 COMMISSIONER ORTON: And I just want to say,
11 remember the wording. This can all fall under communities
12 of interest.

13 FEMALE SPEAKER: Right.

14 MALE SPEAKER: (Inaudible).

15 COMMISSIONER CURRY: Absolutely.

16 CHAIR SZETELA: M.C.

17 COMMISSIONER ROTHORN: So two thoughts in my
18 mind. One, we were in open session, we did talk about
19 voting or voter turnout and do we need data for voter
20 turnout at all. And the second question was related to --
21 should I not say anything about that?

22 CHAIR SZETELA: Yeah, we can't -- that's --

23 MS. PASTULA: We can address those in open
24 session.

25 COMMISSIONER ROTHORN: I wasn't sure if it

1 was related to VRA. The second question is also, is it
2 related. We've asked for Lisa to give us additional
3 analysis. Is it related to VRA? And is there any reason
4 to think that we need to wait for that analysis or
5 something like that. Do I even remember correctly?

6 MR. ADELSON: As you know, and as I mentioned
7 earlier, Dr. Handley is doing additional analysis. We
8 will get an update as quickly as possible. That's
9 something that will be discussed in open session. It is a
10 Voting Rights Act related -- it's related analysis. And
11 as she continues to perform her analysis, we'll have a
12 greater understanding of where she is and when she will
13 be -- when the analysis will be completed. That is a VRA
14 analysis.

15 I wanted to -- in closing, I wanted to mention one
16 issue that's connected with both memos, particularly --
17 well, not particularly. It's connected to both memos.
18 The Voting Rights Act, as I had said earlier, as you know,
19 was passed in 1965 in response to the march in Selma, the
20 march to Montgomery, Alabama, the injuries that occurred
21 that day, the violence was on national television, got a
22 lot of attention and really was seen as a galvanizing
23 moment in American history. This law is about, as I said
24 earlier, the opportunity and ability to elect, regardless
25 of race, color or membership in a language minority group.

1 That's enshrined in the Voting Rights Act. It's also
2 enshrined in the 14th Amendment to the U.S. Constitution
3 which is related to the Voting Rights Act.

4 And the last point I wanted to make, along with the
5 opportunity and ability to elect, and in looking at the
6 next eight days and, frankly, your legacy certainly from
7 my standpoint; you have the opportunity to create more
8 opportunities than have been created in the 200 years of
9 Michigan history. More opportunities to elect, abilities
10 to elect. And again, no guarantees, no requirement that
11 a certain person of a certain race must be guaranteed
12 success. That's not what the Voting Rights Act says.

13 But in thinking about the memos, as I was writing
14 both of them, one of the issues that came up to me was
15 legacy. Because we really are at the legacy stage in a
16 sense that, to me, being able to say and do that, to
17 create the opportunities and abilities to elect that the
18 Voting Rights Act was intended for, speaks to, is
19 significant. And we don't always get to do that, but
20 that's something that I wanted to convey and that's based
21 on my work enforcing the VRA for the United States and
22 also the work that I've done since then. That's an
23 incredibly powerful opportunity. That's what the Voting
24 Rights Act says. That's our opinion. That's our advice
25 and that will be our advice going forward. Thank you.

1 CHAIR SZETELA: Commissioner Eid and then
2 Commissioner Orton.

3 COMMISSIONER EID: Just one more quick thing,
4 kind of a different topic. We also heard comments from
5 Dearborn as it regards to VRA and Arab-Americans. I think
6 we've done a pretty good data-driven process looking at
7 that, but do you guys have anything more for us in that
8 regard?

9 MR. ADELSON: Well, that's also a great point
10 that I want to address and I think, Commissioner, you had
11 asked us a while ago and I saw a couple of misstatements
12 about this in the public sphere. The Voting Rights Act
13 does protect Arab-Americans. The Voting Rights Act
14 protects people based on race, color, national origin.

15 As you know, there was -- the United States sued the
16 City of Hamtramck about 20 years ago for discrimination
17 against Arab-Americans. The United States and the consent
18 decree signed by a federal judge claimed -- not claimed,
19 stated that there were violations of the Voting Rights Act
20 against Arab-Americans based on race and color.

21 So to be clear, the Voting Rights Act does apply to
22 Arab-Americans. They are a protected category under the
23 statute. I did see a couple comments over the last couple
24 of days, I think there was one from Flint actually, or
25 maybe while we were in Flint, that said to the contrary.

1 That is incorrect. The Arab-Americans are protected under
2 the Voting Rights Act.

3 CHAIR SZETELA: Commissioner Orton.

4 COMMISSIONER ORTON: So I just have a comment.
5 I just wanted to remind us all that -- so we need to do
6 this work. It was set up so that we hear from citizens,
7 but I think at this point, we need to kind of shut out all
8 of the criticisms that are coming and all the pressure,
9 because these are all motivated, and we need to do our
10 work using the VRA and communities of interest.

11 MS. REINHART: And I would just like to
12 remind everybody that we are running out of daylight.

13 CHAIR SZETELA: Go ahead, Commissioner Clark.

14 COMMISSIONER CLARK: Yeah. And to add on to
15 what Cynthia just mentioned --

16 MS. PASTULA: Is it directly related to the
17 VRA?

18 COMMISSIONER CLARK: No. Anything discussed
19 in this room today should stay in this room. Period.

20 MS. PASTULA: This is a confidential
21 discussion.

22 COMMISSIONER CLARK: Not discussed with
23 anybody.

24 MS. PASTULA: This is a confidential
25 discussion. Again, as we started, if you have your

1 Confidentiality Agreements, you can return them to Sue Ann
2 or myself. It is a confidential discussion unless the
3 court orders it open, that's why we have the recording.
4 That's why we have the basis and we'll move forward.

5 COMMISSIONER LETT: I move we adjourn the
6 closed session and go back into open session.

7 COMMISSIONER WITJES: Second. Sorry, second.

8 CHAIR SZETELA: Motion by Commissioner Lett,
9 seconded by Commissioner Witjes to conclude the closed
10 session.

11 MS. REINHRT: Before the vote, Madam Chair,
12 I just want to indicate to everyone joining remotely.
13 What this means, after the vote to adjourn if it passes,
14 you will leave this Zoom meeting and re-join the Zoom
15 webinar. So the meeting that we were on right before
16 this. You can use the same link and you will be able to
17 join that one again. Thank you.

18 CHAIR: All right. All in favor of adjourning
19 the closed session, raise your hand and say aye.

20 MULTIPLE SPEAKERS: Aye.

21 CHAIR: All opposed, raise your hand and say
22 nay. I can't see them.

23 COMMISSIONER ROTHORN: Juanita raised her
24 hand. I didn't hear from Erin and Rhonda.

25 CHAIR SZETELA: Erin and Rhonda, could you

1 verbally indicate your vote?

2 COMMISSIONER LANGE: Aye.

3 COMMISSIONER WAGNER: Aye.

4 CHAIR SZETELA: All right. The ayes prevail.

5 It's unanimous, the closed session is adjourned at

6 5:19.

CERTIFICATE OF NOTARY

) SS

I, CAROLYN GRITTINI, certify that this recording was transcribed by me on the date hereinbefore set forth; that the foregoing recording was recorded by me stenographically and reduced to computer transcription; that this is a true, full and correct transcript of my stenographic notes so taken; and that I am not related to, nor of counsel to, either party nor interested in the event of this cause.

CAROLYN GRITTINI, CSR-3381

Macomb County, Michigan.

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